

REVITALIZING THE PLEASURE CRUISE INDUSTRY

HEARING BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

H.R. 3782

TO REVITALIZE THE PLEASURE CRUISE INDUSTRY BY CLARIFYING AND WAIVING CERTAIN RESTRICTIONS IN THE MERCHANT MARINE ACT, 1936, AND THE MERCHANT MARINE ACT, 1920, TO PERMIT THE ENTRY OF THE STEAMSHIP VESSEL "OCEANIC CONSTITUTION" INTO THE TRADE

FEBRUARY 9, 1982

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REVITALIZING THE PLEASURE CRUISE INDUSTRY

TUESDAY, FEBRUARY 9, 1982

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION,
SUBCOMMITTEE ON MERCHANT MARINE,
Washington, D.C.

The subcommittee met at 10 a.m., in room 235, Russell Senate Office Building, Hon. Daniel K. Inouye presiding.

OPENING STATEMENT BY SENATOR INOUE

Senator INOUE. Today the committee will hear testimony on H.R. 3782, which would permit the steamship *Oceanic Constitution* to enter the domestic passenger service. This legislation unanimously passed the House on December 8, 1981.

H.R. 3782 has an initial 1-year prohibition against the *Oceanic Constitution* operating on routes in our coastwise trades other than the intra-Hawaiian Islands trade. Otherwise it is almost identical to that provision in Public Law 96-111 which permitted her sister ship the *Oceanic Independence* to enter our domestic passenger trades. That bill unanimously passed both Houses.

Until the *Oceanic Independence* went into service on June 21, 1980, the U.S. passenger and cruise fleet had been virtually nonexistent for many years.

This dismal fact illustrates most dramatically the deterioration of the U.S. merchant fleet from its preeminent world position after World War II. Today our merchant fleet ranks 10th in the world.

The adverse consequences of our lack of passenger vessels are not limited to the immediate economic ones of jobs and revenues; they extend to national security as well.

For example, at present we have no strategic flexibility in troop transportation. Whereas the Soviet Union has over 70 troop carrying vessels at its disposal, we are totally dependent on airlift, and the Navy indicated it could use additional hospital ships.

H.R. 3782 will permit a very limited exception to the Jones Act. Because of the dire state of our passenger fleet and the lack of any prospects for new vessel construction for this purpose, I believe this exception is not only warranted, it is necessary.

I should also note that there appear to be no concrete indications that any existing vessels of U.S. registry will enter our domestic passenger trades in the near term.

Public Law 96-111, which became law on November 15, 1979, specifically cleared the way for the *Oceanic Independence*, the *United States*, the *Santa Rosa*, the *Mariposa*, and the *Monterey* to operate as cruise vessels in our domestic trades. Yet almost 2½ years later only the *Oceanic Independence* has gone into service.

Moreover, there seems to have been no effort in that time to do any of the repairs, reconstruction or remodeling necessary to bring these vessels up to class and in compliance with applicable laws, such as those requiring sewage holding tanks.

Indeed, during the House hearings on the measure we are considering today the distinguished vice chairman of the Merchant Marine and Fisheries Committee, Mr. Biaggi, made the same observation. He also noted that the committee waited 6 months before scheduling hearings on H.R. 3782 in order to give the parties interested in the *Monterey* ample opportunity for their efforts to come to fruition.

The hearings this morning are intended to give all parties an opportunity to address themselves to the concerns I have expressed, as well as any others which they feel are relevant to the committee's consideration of this bill, H.R. 3782.

Before proceeding with our first witness, without objection I would like to place into the record a letter from the Department of Transportation's General Counsel John M. Fowler; a letter from Todd Shipyards Corp., by Mr. Robert J. Farrington, vice president; a letter from the Seafarers International Union, Mr. Frank Drozak, president; and a Maritime Administration memo regarding the condition of the SS *Monterey*, dated January 22, 1980.

[The bill and material referred to follow:]

Calendar No. 437

97TH CONGRESS
2D SESSION**H. R. 3782**

IN THE SENATE OF THE UNITED STATES

DECEMBER 10 (legislative day, NOVEMBER 30), 1981

Read twice and referred to the Committee on Commerce, Science, and
Transportation

FEBRUARY 11 (legislative day, JANUARY 25), 1982

Reported by Mr. PACKWOOD, without amendment

AN ACT

To revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel Oceanic Constitution into the trade.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, notwithstanding the provisions of section 506 of the
4 Merchant Marine Act, 1936 (46 U.S.C. 1156), section 27 of
5 the Merchant Marine Act, 1920 (46 U.S.C. 883), and any
6 other provision of law, the Secretary of the department in
7 which the United States Coast Guard is operating shall cause

1 the vessel Oceanic Constitution (official Coast Guard num-
2 bered 262027) to be documented as a vessel of the United
3 States entitled to engage in the coastwise trade, so long as—

4 (1) the vessel is in compliance with all other re-
5 quirements for vessels engaging in the coastwise trade,

6 (2) any rebuilding of the vessel or repair work
7 constituting a rebuilding, accomplished after enactment
8 of this Act, shall be effected within the United States,
9 its territories (not including trust territories), or its pos-
10 sessions,

11 (3) the vessel is owned by a citizen or citizens of
12 the United States as defined in the applicable laws pre-
13 scribing the qualifications for vessels to engage in the
14 coastwise trade, and

15 (4) for hire carriage in such trade is limited to
16 passengers, their accompanying baggage, and one
17 thousand measurement tons of cargo, of forty cubic feet
18 each, per annum in any coastwise trade: *Provided,*
19 That for hire carriage of cargo in excess of the afore-
20 said one thousand tons shall be unlawful.

21 SEC. 2. The vessel shall lose the right conferred by sec-
22 tion 1 of this Act to engage in the coastwise trade if, during
23 the first twelve months of operation as a vessel of the United

- 1 States, it operates on a route in the coastwise trade other
- 2 than the intra-Hawaiian Islands trade.

Passed the House of Representatives December 8,
1981.

Attest:

Clerk.

THE SEAFARERS INTERNATIONAL UNION,
Washington, D.C., February 2, 1982.

HON. DANIEL K. INOUE,
Senate Committee on Commerce, Science, and Transportation, Russell Senate Office
Building, Washington, D.C.

DEAR SENATOR INOUE: The Merchant Marine Subcommittee of the Senate Commerce, Science and Transportation Committee will hold a hearing on February 9, 1982, on H.R. 3782, legislation to allow the S.S. *Constitution* to enter the inter-Hawaiian Island cruise trade.

This legislation would grant the necessary waivers to the Merchant Marine Act of 1920 and 1936 to allow the S.S. *Constitution* to be re-flagged in the United States and operated as a passenger cruise ship in the Hawaiian islands.

H.R. 3782 was reported by the House Merchant Marine and Fisheries Committee on December 7, 1981. The full House approved the measure on December 8, 1981.

As President of the Seafarers International Union, I strongly urge you to support this legislation so vital to the rebirth of a viable U.S.-flag passenger vessel industry.

At the present time the only other U.S.-flag ocean-going passenger vessel operating or anticipated in the inter-island service is the *Oceanic Independence*, the sister ship of the *Constitution*. The addition of the *Constitution* to this trade will provide approximately 350 new sea-going employment opportunities, as well as substantial economic benefit to the region and the Federal Government. Additional shoreside jobs will be generated through routine vessel inspections and repairs that will be completed in domestic shipyards. These benefits will be derived without the need for Government subsidy.

In addition to the economic benefits to be gained, this vessel will be available to the U.S. Navy should a national emergency arise. Whether used as a troop transport or converted to a hospital ship, the *Constitution* will be an extremely valuable addition to our national defense readiness posture.

The passage of this legislation will signal the strong commitment of the Commerce, Science and Transportation Committee to the revitalization of a viable U.S. merchant marine and I urge you to give your wholehearted support to the timely passage of H.R. 3782.

Thank you for your support in this matter.

Sincerely yours,

FRANK DROZAK, President.

DEPARTMENT OF TRANSPORTATION,
Washington, D.C., February 9, 1982.

HON. BOB PACKWOOD,
Chairman, Commerce, Science, and Transportation Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Transportation concerning H.R. 3782, an Act: "To revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel *Oceanic Constitution* into the trade."

H.R. 3782, as introduced, would authorize the foreign-flag passenger vessel *Oceanic Constitution* to be documented as a vessel of the United States entitled to engage in the coastwise trade, so long as (1) the vessel is in compliance with all other coastwise trade requirements, (2) other than the installation of bow thrusters and a marine sewer sanitation system, any rebuilding of the vessel after enactment of H.R. 3782 shall be effected in the United States, (3) the vessel is owned by a citizen of the United States, and (4) the vessel transports only passengers, their accompanying baggage, and not more than 1,000 tons of cargo annually. In brief, the bill would authorize the foreign-flag passenger vessel *Oceanic Constitution* to be operated under U.S. registry in the coastwise trade in a manner similar to the current operation of her sistership, the *Oceanic Independence*.

The *Oceanic Constitution* and the *Oceanic Independence* were constructed in the early 1950's, and operated under the U.S.-flag as the passenger vessels S.S. *Constitution* and S.S. *Independence*. Subsequently, the introduction of jet aircraft destroyed the trans-atlantic passenger ship market, and the S.S. *Constitution* and S.S. *Independence* were taken out of service in 1968. Thereafter they were transferred to foreign registry and operated as the *Oceanic Constitution* and *Oceanic Independence*. Legislation was required to transfer these ships to foreign registry, as they had been constructed with the aid of construction-differential subsidy and at that time had

not reached the end of their 25-year statutory life. Public Law 92-296, approved May 16, 1972, provided for the transfer of the S.S. *Constitution*, and Public Law 93-330, approved June 30, 1974, provided for the transfer of the S.S. *Independence*.

Under the authority of Public Law 96-111, approved November 15, 1979, the *Oceanic Independence* was transferred back to U.S. registry, and currently operates as a U.S.-flag cruise ship in the Hawaiian Islands. Legislation was required to reflag the vessel for operation in the coastwise trade, as section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) would otherwise prohibit such operation.

The subject bill would provide similar authority so that the *Oceanic Constitution* could be operated under the U.S.-flag in the coastwise trade. In this regard, H.R. 3782, as introduced, is identical to Public Law 96-111, as it pertains to the *Oceanic Independence*.

On November 18, 1981, hearings on the bill were held by the Subcommittee on Merchant Marine of the House Merchant Marine and Fisheries Committee. As this Department was unaware that any U.S.-flag operator would be disadvantaged by the operation of the *Oceanic Constitution* in our coastwise trade, we submitted a statement in strong support of the proposed legislation. The operation of the *Oceanic Constitution* in our coastwise trade would provide a number of benefits to the United States' economy. In addition to the service provided by such vessel, there would be the usual purchases associated with its operation, such as fuel oil, stores, and vessel repairs. It would also provide employment for about 600 U.S. merchant seamen, with all the collateral benefits associated with employment on a U.S.-flag vessel. These benefits would be realized without any government assistance for the operation of the *Oceanic Constitution*. Thereafter, allegations were made that the unrestricted operation of the *Oceanic Constitution* in our coastwise trade could disadvantage prospective U.S.-flag operators, and the bill as passed the House of Representatives restricts such operations to the intra-Hawaiian Islands trade for the first year.

The Department of Transportation strongly supports the intent of H.R. 3782. However, the bill would appear to be unnecessarily broad for the purpose of authorizing the *Oceanic Constitution* to be operated in the coastwise trade. Therefore, we suggest that the "notwithstanding" provision in H.R. 3782 be specifically limited to this purpose.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the committee.

Sincerely,

JOHN M. FOWLER, General Counsel.

TODD SHIPYARDS CORP.,
Washington, D.C., January 6, 1982.

HON. DANIEL K. INOUE,
U.S. Senate, Washington, D.C.

DEAR SENATOR INOUE: This will serve to advise you that Todd Shipyards Corp. strongly favors passage of H.R. 3782, a bill to permit the United States documentation of the *Oceanic Constitution* passenger vessel for operation in the coastwise trades of the United States.

Passage of this legislation will benefit the U.S. merchant marine and our defense posture insofar as we attain a third passenger vessel flying the American flag.

The American shipyards also will benefit, since future repairs to the vessel will be confined to American yards.

Incidentally, our Todd Shipyards Corp., San Francisco division, recently finished a substantial repair and overhaul job on the *Oceanic Independence*, which proved to be a good job for Todd, as well as the owners, in that the work was completed ahead of time.

Your help in this matter, Senator Inouye, is greatly appreciated.

Very truly yours,

ROBERT J. FARRINGTON, Vice President.

U.S. DEPARTMENT OF COMMERCE,
MARITIME ADMINISTRATION,
Washington, D.C., January 22, 1980.

Memorandum for: Senior Maritime Aides Specialist—Ronald Stone, 500.1
Subject: S.S. *Monterey*.

S.S. *Monterey* was originally constructed as Mariner class vessel; the S.S. *Monterey*, Ex-Free State Mariner, was built in Sparrows' Point, Md., December 1952. The

ship was purchased by Matson for conversion to passenger vessel. The work was done by Willamette Iron & Steel in Portland, Oreg., December 1956. Matson operated this vessel in the West Coast/North America to Australia and South Pacific under ODS until vessel was sold to Pacific Far East Line in 1971. Pacific Far East Lines has continued this passenger operation and is also utilizing the vessel as a cruise ship. The ship has been in continuous service for approximately 21 years, until layup in 1976.

Although the original *Mariner* was the finest cargo vessel the world has seen, stoutly built, fast with ample reserve power and good stability, the conversion stretched the design to its limit. The massive structures that were added to the vessel to accommodate 336 passengers and 265 crew members, required that the ship be heavily ballasted with salt water to compensate for the weight added to the upper decks of the vessel.

The power demands for air conditioning for both passengers and crew, plus an increased demand for propulsion power to maintain a 20-knot schedule with the increased dwt. has taxed the boilers beyond their design capability. The above, coupled with scheduling that has never provided for adequate repair periods, has taken its toll. It is now apparent that the physical condition of the S.S. *Monterey* was rapidly nearing a point of no return, in 1976.

Salt water ballast tanks are currently the number one problem. These tanks are located in the midbody between frames 57 to 160, and must be maintained structurally sound and tight to preserve the strength and watertight integrity of the vessel. Originally, they were protected with an asphalt type coating that remained in place for years. From outward appearances the material was tightly bonded to all surfaces. However, in many areas salt water has penetrated beneath the coating attacking the unprotected steel. Because of the tight schedulings, this was not detected until these compartments were seriously damaged.

The salt water ballast tanks are under the constant surveillance of all interested parties, but much more remains to be done if the vessels are to be restored for an extension of their lives.

Weather exposed decks are also a problem; these decks are now covered with a heavy resilient mastic. This product was installed to provide a comfortable, safe walking surface that was attractive in appearance. This is now blistering and it is apparent that the steel deck beneath is wasting. The product is costly and we must deal with 65,000 square feet.

The main propulsion plant and all related equipment are showing the effects of the years of constant operation. Here, as in all ships that are pressed by fast turn around, the frequency of required repairs accelerates with age.

Obsolescence has also been a factor in increased operational costs. Replacement parts that were formerly shelf items are no longer available and, when required, must be manufactured as specialty equipment.

As this vessel is under the surveillance of the U.S. Coast Guard and classed with A.B.S., they are subjected to the periodic inspections and surveys conducted by these regulatory agencies. To remain certificated and in class, they must meet the standards published for vessels of their size and employment.

The vessel is due for a class No. 7 special hull and machinery survey in 1980. We are certain that the ship will not pass the survey without extensive repairs and renewals. To accomplish this, it is estimated it will cost in excess of \$7 million.

This expenditure will not significantly reduce M. & R. costs, nor will it improve the vessel's reliability. It will provide only for the correction of existing class and U.S. Coast Guard deficiencies. The piping behind the paneling in the passenger staterooms will continue to plague the operator as will aging galley and laundry equipment.

The layers and layers of white cosmetic coatings that have been applied to hull and superstructure, that is now peeling from the hull in patches giving the hull a quilt-like appearance, will require blasting and coating of the entire superstructure.

There was no dehumidification (D/H) installed on vessel at time of layup in 1977—to present (over two (2) years).

The age of the vessel at this time is nearly 28 years.

The estimate figures in the summary are based on:

A. U.S.C.G. letters dated 13 April 1976 and 4 May 1976.

B. A.B.S. reports No. SF24830 and No. SF24832 dated 21 April 1976 and 8 May 1976.

C. Nuclear Energy Services, Audio Gage Reports dated April and May 1976.

D. Maritime Administration, Western Region Report April 1976.

E. Bethlehem Steel Corp. quotation dated 12, October 1979.

Summary:

A. Bethlehem Steel, San Fran quote	\$1,909,643
B. Bethlehem Steel, Gen notes from quote	963,000
C. No. 7 Special survey hull and machinery	412,000
D. Repairs required by No. 7 special survey	187,000
E. Weather or steel renewal	174,000
F. Weather or coating renewal	67,000
G. P/S boiler foundations and casings	98,000
H. Tail shaft re-wood	26,000
I. Extended dry dock fees	68,000
J. Extended daily services	39,000
K. Coating of superstructure and DK gear	233,000
L. Pipe repairs/renewals	71,000
M. Repairs-refurnish existing passenger quarters, public rooms and crew spaces	286,000
N. Life boats overhaul U.S.C.G.	26,000
O. Steel repairs/renewals to Salt Water ballast and deep tanks	2,441,307
Total	7,000,950

BURT KYLE,

Director, Office of Ship Operations.

Senator INOUE. Our first witness this morning is Othmar G. Grueninger, president of the Royal Hawaiian Cruises, Inc., World Trade Center, San Francisco, Calif.

Welcome, sir.

STATEMENT OF OTHMAR G. GRUENINGER, PRESIDENT, ROYAL HAWAIIAN CRUISES, INC., ACCOMPANIED BY WILLIAM W. BLUNT, JR., ATTORNEY

Mr. GRUENINGER. Mr. Chairman, my name is Othmar Grueninger. I am president of Royal Hawaiian Cruises, and I have with me my attorney Mr. William Blunt.

I am testifying today in opposition to the bill in front of this committee because it endangers our *Monterey* project. The bill is unnecessary. In addition I consider the bill unfair.

My company has already invested over \$1 million in this project. The M.M. & P. bought the ship in the last seconds before it would have gone to a foreign flag for over \$3 million. The M.M. & P. has spent another \$2 million more to maintain the ship. Obviously this shows our, as well as their sincere interest and effort to keep this ship under American flag. And that's what we are talking about today, Mr. Chairman.

We have completed our financing. We have a solid purchase agreement with the M.M. & P. and we are just waiting the outcome of this bill. I cannot compete with the ship *Oceanic Constitution*, which is being completely rebuilt in a foreign country which will then for the same amount of money of investment, roughly \$10 million, will carry 800 passengers, where my ship, rebuilt in the United States with American labor, the same amount of expenditure, or even more, will carry 400 passengers, and according to the MarAd study it shows that my break-even point would be \$199 per day per person, and the break-even point of the *Oceanic* would be \$159. There is no possible way I can compete.

And what we are talking about today is simply are we putting a foreign ship in American service to lose the *Monterey*, which now is American, to a foreign flag. And there is nothing else. Because the

union has no other choice than to sell the ship foreign, because all other bids except ours are foreign bids, much higher bids than ours, and therefore we are gaining 500 or 600 jobs on the *Oceanic*, which is now foreign, and losing 400 jobs on an existing American ship, and I think it's an unfair trade.

Furthermore, the ship was bought under a special bill, Public Law 92-296, which permitted Mr. C.Y. Tung to purchase the ship for a ridiculously low amount, which I think is \$1 million, but only so low because of restrictions to the bill which clearly say that the ship is available at all times to the U.S. Navy in emergencies, the *Independence* as well as the *Constitution*. No. 2, that it cannot reenter U.S. coastwise trade for 2 years after it starts service.

Now what we are doing here today is changing that, and yet the \$1 million which he paid for the ship, and the ship was worth at least \$8 or \$9 million at that time, improves his situation greatly in opposition to the situation of the *Monterey*.

I read Mr. Kelly's testimony and I read Mr. Drozak's testimony, and you just said how great it is to have the ship back, available for the U.S. Navy. That ship never left the availability to the U.S. Navy; it was always available under the conditions of the sale.

The bill, I said, is not necessary, because anybody can register the ship in the U.S. flag. There is no bill necessary; simply an application to come back or not to come back. In this case to come back in the U.S. flag.

And furthermore, the way I read this bill, Public Law 92-296, it doesn't take this particular bill either to allow coastwise trade for the *Oceanic*. The only thing she has to do is wait 2 years. And I don't think that is fair for them, when they buy the ship under that condition, not to wait the 2 years, to give the *Monterey* the chance, which is now an American-flag ship, to come back in that service and give her the advantage, since she is already American, to prove that she can run under the same conditions.

This ship could today take the American flag by simply applying for it, then run out of Los Angeles to Mexico, run out of Los Angeles-San Francisco to Alaska, run in the Caribbean, always under the American flag, and then 2 years from now, if I understand the law, she can automatically apply for her coastwise trading rights.

I was very disappointed, and I hope Mr. Everhard ultimately will explain to this committee how come he sent the *Independence* or left the *Independence* in a foreign yard and had it completely rebuilt in a foreign yard when it is very clear, under the *Independence* bill, that this committee understood, that the Senate report understood, that only the bow thruster and the sanitation equipment was permitted to be installed in a foreign country. Yet they spent millions and millions of dollars to refurbish and repair this ship in a foreign yard.

Now comes the *Constitution*. They rebuild it first, then come to this committee and assume it will slide right through Congress automatically, already rebuilt in a foreign yard. Now if they say that that isn't subsidy, Mr. Chairman, I don't know what subsidy is.

I would like to have Mr. Drozak or Mr. Kelly explain how they justify, as American labor movement, the rebuilding of this ship in a foreign country.

I question too the SIU's as well as the MEBA's district II's position. I have in front of me the American Maritime Officer, a magazine which is published by district II, in which it clearly states the policy of the AFL-CIO. It says: "The merchant marine should be strengthened through active Federal maritime programs. The integrity of the Jones Act must be maintained against any attempts to weaken it."

And there they are testifying and saying let's have a foreign ship come in over the *Monterey* which is already an American ship.

Mr. C. Y. Tung was so sure that this bill would slide through this Congress he printed folders stating that the *Constitution* is an American ship; he advertised it as an American ship. He didn't even have the courtesy to say, which he now says, subject to Government permission. But he didn't in the past.

There are so many other problems concerning the *Independence* and the *Constitution*, in this case the *Independence*, where we are so surprised. For example, when the *Independence* needed its yearly overhaul the Navy freely made their dock available in Hawaii for repair. And it took a rock which she ran into in the port of Nawiliwili finally to bring this ship into an American harbor, in an American repair shop in Todd's yard. The ship sailed from Honolulu without ever having seen a U.S. repair shop, and then only after the accident it came in.

We wonder too, Mr. Chairman, what it does to the Hawaiian tourist trade. We intend to hire hundreds of Hawaiians, and if the ship goes foreign that chance is gone. And it will go foreign if we say no, if we don't buy the ship from M.M. & P.

We wonder what the *Constitution* is doing to the deluxe carriage trade in the outer islands in Hawaii. There are hotels which have just recently been built, and the tourist trade, as you know, in the outer islands is a little bit weak at this moment.

There's a ship, the *Constitution*, and the *Independence*, 1,600 beds a week, sailing from Honolulu to the outer islands, 1,600 beds of intercepted carriage trade. That is not created trade. I maintain that is trade which they intercepted, trade which would have gone to the outer islands anyhow. There are 1,600 seats for Aloha Airlines, 1,600 seats for Hawaiian Airlines, every second day, which these airlines lose, and they pay taxes; they pay American taxes. The *Independence* and the *Constitution* sail without paying a nickel—no hotel tax, no sewer tax, no real estate tax, no property tax, nothing whatsoever.

If I were a hotel owner in the luxury category in the outer islands I would be really, really concerned about that. That's a tremendous additional capacity. That's different than our case. I admit, though, that the shopkeepers, the sightseeing guides, the buses, it's a tremendous benefit to them. In our case, though, that's different, Mr. Chairman. We bring the business to the islands, and the islands need the business. We sail to Hawaii and from Hawaii. And we are not subsidized, not a nickel. And to say that the *Independence* or the *Constitution* is not subsidized when she is built for half the cost, rebuilt for half the cost in Taiwan, is not fair.

So there we are. We are at a point where this committee and this bill will decide if the SS *Monterey* stays in the American flag.

I do appreciate the opportunity to say what I have to say, and it's a great country where somebody like me can come up and express his opinion.

Thank you very much, sir.

Senator INOUE. Thank you very much.

In November of 1979, a bill was passed that permitted the *Monterey* to enter out domestic trades. At that time I believe the ship needed sewage holding tanks and other repairs. When you testified before the House last November were these repairs done?

Mr. GRUENINGER. Oh, no, no. The repairs are not done, but they were out for bids and we have received the bids from the Bethlehem Yard in San Francisco, from a yard in Portland and a yard in Tacoma.

Senator INOUE. I believe you said at that time you testified in November that you were ready to put the *Monterey* into drydock for repairs in December. Is it in drydock now?

Mr. GRUENINGER. No, it is not, because I wanted to wait the outcome of this hearing, sir. But our financing is completed.

Senator INOUE. In October of last year the FMC issued an order to show cause why your performance certificate should not be revoked for failure to make timely refunds for deposits and fares collected for cruises on your ship which had not been performed. What is the present situation on that case, sir?

Mr. GRUENINGER. These are court cases. There are some refunds outstanding which are in court, and as soon as the court decides what action is to be taken about the refunds—we have posted a \$1.6 million cash bond for the settlement. The law requires that. In opposition to the *Oceanic* who advertised and promoted without ever having posted that bond for the first 3 months, we had our bond posted, and if the court decides we owe these amounts—these are mostly amounts, Mr. Chairman, which an agent collected, not remitted to us. But the Federal Maritime Commission feels he was our agent, we therefore are liable to refund these amounts, and we say he was the agent of the client, not ours. And that is in court and we hope maybe the next 2, 3 months it will be settled. But the money is deposited in bond, available at any time for any court decision.

Senator INOUE. What is the present estimate of the cost of repairing, remodeling and bringing your ship up to class?

Mr. GRUENINGER. In excess of \$7 million in an American yard.

Senator INOUE. In excess of \$7 million?

Mr. GRUENINGER. Yes, sir.

Senator INOUE. According to the Coast Guard Office of Documentation the owner of record of the *Monterey* is the American Maritime Holding Corp. What is the relationship between the American Maritime Holding Corp. and the Royal Hawaiian Cruises.

Mr. GRUENINGER. American Maritime Holding Corp. owns the ship outright. We have a purchase agreement, and deposits with that company which allows us to pick up the ship as soon as we so decide.

Senator INOUE. Have you spent, as indicated, hundreds of thousands or dollars in preparation and development for the operation of the *Monterey*?

Mr. GRUENINGER. Absolutely, sir. Mostly in marketing and naval architectural work.

Senator INOUE. Not on repairs?

Mr. GRUENINGER. Not on repairs, sir, no. But American Maritime Holding Corp. has spent a tremendous amount. The ship was in drydock, the ship was inspected, some repairs were made, all the plates were checked, because the maritime, the waterfront talk was the ship would be sinking any minute.

Senator INOUE. This bill, as you know, prohibits the *Constitution* from operating in the west coast trade and would be limited only to the intra-island trade for the first year. How would this compete with you unfairly, sir?

Mr. GRUENINGER. In the second year, you mean? Or during the first year?

Senator INOUE. First year.

Mr. GRUENINGER. In the first year we have—our itinerary is from San Francisco to Honolulu, No. 1. Then we have a 7-day island cruise and a return to Los Angeles. We would offer exactly the same in the islands.

Senator INOUE. What is the present status of your financing?

Mr. GRUENINGER. It is completed.

Senator INOUE. Completed?

Mr. GRUENINGER. Yes. All funds have been committed.

Senator INOUE. I believe your testimony that is dated today says "we are very close to completing financing."

Mr. GRUENINGER. Yes. That's a legal interpretation. I have a letter—I had to sell 65 percent of the stocks of my company to a certain party, and it is completed subject for us to pick up the funds. I have a document that it is a fact.

Senator INOUE. I believe you suggested that the *Monterey* was drydocked for survey and repair in November of 1980. Was that done?

Mr. GRUENINGER. Yes, correct, sir, in Bethlehem yards.

Senator INOUE. We have been advised within the last 24 hours by the Coast Guard Marine Safety Division in San Francisco that if the *Monterey* wants to reenter the U.S. passenger trade a new certificate of inspection must be issued by the Coast Guard, and before issuing this certificate of inspection the Coast Guard must do a drydock inspection, structural integrity inspection, safety equipment inspection, structural fire protection inspection, sanitary inspection, machinery, plant inspection, and the cargo gear inspection. Has this been done?

Mr. GRUENINGER. No. You cannot do that, sir. Actually in the process of repairing and drydocking the ship the Coast Guard will be on board at all times. When we open the main engine the Coast Guard will be there and inspect it and say yes or no, and accordingly we have to do the necessary changes or not. It is not an inspection where the Coast Guard walks on the ship today and says this ship cannot be certified. In the process of drydocking, repairing, they will be there at all times and sign off each individual item, as you mentioned. And the American Bureau of Shipping is doing the same thing. And the final certificate, when the last inspection of any fan, blower motor, whatever may be done, is completed, they will sign off the total ship. They do it step by step.

Senator INOUE. We were advised by the Coast Guard that it will conduct a courtesy preinspection to advise you, the owner, as to what is needed.

Mr. GRUENINGER. If I am so insecure and have to ask them to do that, yes, we could ask them to do that, but we have no intention to. We know exactly what has to be done on the ship, because it's clear from the ABS records what has to be done; it is clear from our bids; it is clear from our inspection. We had an engineer on board the ship for over a year. We know exactly what has to be done on the ship. But we appreciate the cooperation of the Coast Guard, naturally. Anything they can help us with they will, because they are just as interested as we are to put this ship in American service.

Senator INOUE. By your testimony are you saying that if this measure passes you will abandon your *Monterey* project?

Mr. GRUENINGER. I would seriously consider it, and most likely, sir, because it is an economic fact that I cannot compete with these 1,600 beds which cost a third less. Plus I don't know how I could accept millions of dollars of financing without being secure or sure that I can compete.

Senator INOUE. Well, Mr. Grueninger, I thank you very much. You may be assured that we will study your testimony very carefully, sir.

Mr. GRUENINGER. Thank you. I appreciate very much the opportunity.

[The statement follows:]

STATEMENT OF OTHMAR G. GRUENINGER, PRESIDENT, ROYAL HAWAIIAN CRUISES, INC.

I am the president of Royal Hawaiian Cruises, Inc., and I have come here to testify in opposition to H.R. 3782.

My company intends to put the SS *Monterey*, an American vessel qualifying for coastwise trade, into service as a passenger cruise vessel between the West Coast of the United States and the State of Hawaii and among the Hawaiian Islands. Financing will be completed and the vessel in a United States yard this month. We plan to sail by mid-year, 1982.

As you know, provisions were enacted into law 2 years ago in Public Law 96-111 (93 Stat. 845) with respect to the SS *Oceanic Independence*, allowing that vessel to qualify for coastwise trade despite the fact that all shipyard work on her was to be performed in a foreign yard, by foreign labor. She is now in the Hawaii cruise trade.

The SS *Monterey* was also named in the same legislation, but only to clarify her status after her subsidy period had expired. No foreign construction privileges were requested or granted the SS *Monterey*.

Now the owners of the SS *Oceanic Independence* are asking Congress to grant foreign construction privileges to the SS *Oceanic Constitution*, which is currently under foreign flag and undergoing final refurbishing in a foreign yard—a yard which itself, we believe, is owned by the same interests.

I come here as someone who is prepared to rebuild and recondition a U.S.-flag vessel in a U.S. shipyard—U.S. workers will do all of the work on my vessel—and put it into a domestic service explicitly protected from unfair foreign competition by the Merchant Marine Act of 1920. Already over \$5 million has been spent toward this goal. We will do this without any Federal subsidy, expenditure of Federal funds, or Federal guarantees. We can enter the service before June 30, 1982.

In addition to creating full-time jobs are more than 500 people and an estimated 150 jobs or job equivalents in direct support of the operation, we project that some \$25 million annually will be spent in the United States only on provisioning, sales promotion and other goods and services connected with the SS *Monterey*. Moreover, our economic impact on the American and local Hawaii economy will be proportionately greater than an inter-island service because our itinerary includes hotels and other amenities in a package tour for all passengers. These services will bring an-

other \$6.5 million to the economy apart from additional tourism revenue which our service will induce.

Finally, our shipyard work in this country will sustain additional jobs and generate additional tax revenues for the United States.

Of course, a commissioned passenger vessel in coastwise service is also an important defense resource in cases of national emergency.

The feasibility of such an undertaking has been confirmed. It can be done. Provided, however, that the policy to protect the right of so-called Jones Act vessels to compete among themselves in coastwise trade is not undermined here by erosion of the very provisions of the Jones Act which afford that protection.

We feel strongly, therefore, that it is unwise, unnecessary and unfair to rush to comply with requests from an owner who through use of foreign labor in foreign yards will cut the costs of operating in coastwise trade by millions of dollars at the expense of U.S. workers and U.S. yards and to the detriment of others who would enter the same trade on a legitimate basis. The result of giving in each time to such requests is bound to be the disruption of what should and can be an orderly and strong domestic pleasure cruise market. It could certainly jeopardize our efforts.

H.R. 3782 should be voted down, or at least a decision one way or the other should be deferred pending study in greater depth, for the following reasons:

(1) Funds have been expended and work done on the SS *Monterey* to bring her into the trade in reliance on the law as it stands—it is unfair to change that law now.

The SS *Monterey* was purchased by American Maritime Holding, Inc., in November 1980, drydocked for survey and some repair, and has been held for a year, all at considerable cost, and all on the reasonable assumption that the vessel could enter the coastwise pleasure cruise trade in the market environment which existed at the time. My company, Royal Hawaiian, has expended hundreds of thousands of dollars in preparation and development for the operation of the vessel under the same assumption. The market assumptions as defined by Congress and on which we relied did not include the SS *Oceanic Constitution*, which at the time of the purchase of the SS *Monterey* was laid up and flying a foreign flag.

Now the owner of the SS *Oceanic Constitution*, comes to this committee and asks that the current berths in the Hawaii trade be doubled on what amounts to a highly subsidized basis (effected by the tremendous savings of all foreign construction), despite the assurance provided by the Merchant Marine Act of 1920 (the "Jones Act"), and subject only to the exceptions in P.L. 96-111 which defined the field of competition at the time our commitment to the SS *Monterey* was made.

We welcome competition that is fair and legitimate. However, what might at one time have been considered a legitimate effort through enactment of Public Law 96-111 to set the stage for revitalization of the domestic cruise trade, becomes today, if repeated for a new entrant in H.R. 3782, unfair treatment of those who committed time and resources based on that original inducement. H.R. 3782 abets unfair competition rather than encouraging and protecting trade in the domestic cruise market.

(2) Each exception to the statutory strictures takes substantial work away from U.S. workers and U.S. shipyards and takes revenues from the U.S. Treasury.

The immediate effect of deciding on a case by case basis to allow a vessel to be rebuilt in a foreign yard and still qualify for coastwise trade is obvious. In each case our workers are deprived of jobs and our yards are deprived of work which they need desperately to sustain their operation.

It is also true that although no Federal expenditures have been made directly to support the SS *Oceanic Independence* or SS *Oceanic Constitution*, permission to benefit from foreign construction is a cost to our economy—in Federal tax dollars which will be lost, and in its adverse effect on the balance of payments.

In effect, the concessions asked for by the owner of the SS *Oceanic Constitution*, are the equivalent of an outright Federal grant or subsidy of millions of dollars—both in revenues lost to the U.S. Government and the substantial benefits gained by that owner.

That foreign work on the SS *Oceanic Independence* was commenced before enactment of the special legislation allowing foreign work on her, and that foreign work on the SS *Oceanic Constitution* has been virtually completed, begs the issue. Foreign work in both cases was engaged anticipating a legislative reprieve and consequent qualification, which in the latter case is sought in H.R. 3782.

If Congress stands firm, foreign work will not be done, as it has been here, in expectation of forgiveness.

(3) The ultimate effect of these exceptions will be to force all similar passenger vessels to go to foreign yards if they are to compete effectively in coastwise trade.

The orderly domestic market, protected to insure maximum benefit of coastwise trade on our domestic shipping resources—including our shipworkers and shipyards—will be irrevocably disrupted by allowing a competitive cost edge to certain entrants through their benefitting from work in far less expensive foreign yards. To compete, the other potential entrants will need the same favor. Congress must act without prejudice, and the pressure on a case by case basis to allow foreign construction must necessarily intensify. How can others be refused?

(4) The real issue, then, is whether the requirement for vessels in coastwise trade of domestic construction and rebuilding should be abandoned—and this issue should not be decided piecemeal.

The issue at stake each time an exception is requested is really whether an important element of the Jones Act strictures should be dropped or severely modified. This issue should be met head-on and dealt with in much greater depth than the exigencies of the moment will ever allow. Such questions as the impact of current requirements on the viability and self-sufficiency of our ship building capability on this important sector of domestic employment should not be ignored. A threshold question of key importance is whether a major compromising of protection for domestic shipbuilding is necessary to make passenger vessel operation in the coastwise trade feasible.

(5) There has been no convincing showing that foreign shipyard work is necessary to make operation of passenger vessels in coastwise trade feasible.

We feel strongly that existing vessels rebuilt, refurbished and brought into class in U.S. shipyards can, in fact, enter the coastwise passenger cruise trade and operate on a profitable basis. Congress set the stage for revitalization of the trade by insuring that five American-built vessels would be available.

Of these, one, the *SS Mariposa*, has been at least temporarily withdrawn from consideration. She has been purchased and then sequestered in a foreign port by the same interests which effected the purchase of the *SS Oceanic Constitution*. The *SS Santa Rosa* and *SS United States* are under active consideration by groups desiring to bring them in.

We are very close to completing a financing which will bring in the *SS Monterey*. Our studies, studies by the Maritime Administration, and our projections indicate that her operation can be feasible and profitable.

The *SS Oceanic Independence* is operating successfully in the inter-island trade in Hawaii. It appears that not only bow thrusters and a sewage treatment system, but all shipyard work on her was completed in foreign yards (expect some recent repairs occasioned by her running aground during operation). This fact does not establish whether such foreign work was necessary, and certainly does not bear on whether other vessels can enter the market successfully without such foreign work.

Since work on the *SS Oceanic Constitution* is nearly complete, all such work on her will have been completed abroad. In both cases the owner commenced the work abroad before any Congressional action, thus attempting to reduce the options available to a Congress which desires to help revitalize this trade. In fact, the *SS Constitution* has already advertised its coastal service, even though she still flies a foreign flag and lies in a foreign shipyard.

These tactical maneuvers should not distract this Committee. There has been no convincing showing that the coastwise cruise trade needs major compromise of existing policy to thrive. In fact, there is much evidence that it can thrive without these concessions. Under such circumstances, Congress should not take the action called for in H.R. 3782.

CONCLUSION

Enactment of H.R. 3782 would have a clear adverse impact on an important element of the Nation's maritime industry, even though it deals with a single case rather than an overt modification of the Maritime Act of 1920. There is no showing that any such modification is necessary for the coastwise passenger cruise trade to revive. In fact, my company is committed to entering that trade with the *SS Monterey* and has obtained commitment of the financial resources to do so—and all without any similar exception to existing requirements.

The proposal before you should not be enacted. At the very least, the experience of the *SS Independence* should be examined carefully, and the feasibility of conducting the domestic pleasure cruise trade studies in greater depth, before any more piecemeal actions allowing foreign shipyard work are taken.

Senator INOUE. Our next witness is the Chairman of the Board of the Transportation Institute of Washington, D.C., Mr. Herbert Brand.

Welcome, sir.

STATEMENT OF HERBERT BRAND, CHAIRMAN, TRANSPORTATION
INSTITUTE

Mr. BRAND. Good morning, Mr. Chairman.

Senator INOUE. It is always good to see you.

Mr. BRAND. Good to see you, sir.

Senator INOUE. I have a copy of your testimony here.

Mr. BRAND. I would like it to be inserted into the record and I would like to make just a couple of comments, if I may, without burdening the record, sir.

Senator INOUE. Without objection, your statement will be placed in the record in total, sir.

Mr. BRAND. Thank you very much.

First of all, I think that the record should indicate that I am here as chairman of the board of trustees of the Transportation Institute which is a maritime research and promotional organization whose membership consists of 174 companies engaged in all forms of marine transportation.

Mr. Chairman, I think that it is rather appropriate that you are occupying this chair today again as you did in the case of the *Oceanic Independence*. I think this is a very important and signal development in what is a very, very dire situation for the American merchant marine.

I will leave it to Mr. Everhard to describe the specific details with respect to the vessel they are seeking approval for. But I would deal with this in terms of the general interest to the maritime industry and to the nation, if I may.

I think it is rather significant that 2 years ago when you approved the entry of the SS *Oceanic Independence* into the Hawaiian cruise trade you in effect set the stage for the entry of the *Constitution* into the American trade and this hearing today. At the time of the last hearing we had no passenger cruise trade and an effort was made to promote development of that service, and as you pointed out to Mr. Grueninger, a request was made for several ships to be allowed to enter that service and other services. As I recall, the *Monterey*, the *Independence*, the *United States*, and I think the *Mariposa*.

The people who sought the approval for the *Independence* proceeded apace. I might point out that we and other members, people in the industry, supported approval of all of these vessels, and it was expected that people would move forward with their enterprises and that we would see a flurry of activity in the passenger trade. However, whatever the reasons were, only one has moved. It was the people who owned the *Independence*, and they have been very, very successful, and I think that points up the wisdom of the committee in approving the request that they had made initially.

I think that we should move quickly in approving this bill because with this country in serious economic straits, with our merchant marine particularly being hard hit and continuing to shrink,

that every effort should be made to encourage the investment of capital by people who are willing to put their money and their experience and their ingenuity on the line, and think this has been demonstrated in the case of the *Independence* by the people who are presently seeking approval for the entry of the *Constitution* in a similar service.

I think that they are not asking for anything in the dark. They now have a proven successful enterprise, and they are willing to expand that service and to develop their expertise in the passenger cruise service, and I don't know where this could ultimately lead, but I do think that it is incumbent upon us to offer them every opportunity to go ahead. This does not preclude anyone else from moving ahead.

I should like to point out that the previous testifier constantly referred to the vessel as a foreign-flag ship. The vessel, you will recall, was built in an American yard. The people who owned the vessel, the American Export Lines, like others in that era, were unable to continue the vessel in the passenger service and eventually the vessel was laid up. The U.S. Government approved its layup and ultimately approved its sale foreign because there was nothing else for it to do after several years in layup.

The vessel, if it were to come back, would be employing all American hands throughout the enterprise. I think it is important therefore from the standpoint of American employment. I think it is important from the standpoint of improving our balance of payments position, and I think too that from the national security standpoint it is vital because it is a workable ship with a great deal of potential for the Defense Department needs. I think from that standpoint it would be very desirable for this committee to move as quickly and expeditiously as possible to make that service immediately available.

Mr. Chairman, I thank you very much for the opportunity to speak before you.

I would like to make just one other point. I think this is absolutely consistent. I mean the approval of the vessel. In spite of the fact that many people want to preserve the Jones Act, and we all are for it, this vessel will become an American ship, it will not compete with any other vessel or will not provide a service that is being provided by anybody else at the moment, and therefore I think it is consistent with our stand on the Jones Act. It would be very desirable if we could build American ships in American yards at this point, but at the very moment there is no such prospect, and I think the putting of that ship back under the American flag where it was originally will be a major step forward.

I thank you very much for this opportunity once again.

Senator INOUE. Mr. Brand, Mr. Grueninger, as you heard, indicated that much of the refurbishing and repairing was done on this ship in a foreign shipyard and therefore is placing the *Monterey* at a grave disadvantage. What is your comment, sir?

Mr. BRAND. Well, sir, I think to begin with it would be desirable if the vessel could have been repaired in an American yard, but the fact was that the vessel was overseas at the time; it was near a yard where it could be done perhaps at less cost to the operator. I would have preferred to have seen it done in an American yard,

but that was not the case, and I don't think that we are in a position—we are twisting slowly in the wind, to use a very trite and hackneyed expression, and I don't think we can afford the luxury of demanding that that vessel not be repaired in a foreign yard as a prerequisite to it coming back under the American flag. I don't think we are in the driver's seat in that connection. It is my conviction that we must do everything possible to get ships back operating under the American flag and that will set the stage for ultimate expansion of our fleet and in that way be of benefit to the American shipyards.

Senator INOUE. Thank you very much.

Mr. BRAND. Thank you very much.

STATEMENT OF HERBERT BRAND, CHAIRMAN, TRANSPORTATION INSTITUTE

Mr. Chairman and members of the committee: My name is Herbert Brand and I am chairman of the board of trustees of the Transportation Institute, a private, non-profit research and promotional organization whose 174 member companies are engaged in all phases of marine transportation. We appreciate the opportunity to comment on H.R. 3782, which would allow the S.S. *Constitution* to enter the Hawaiian islands cruise trade.

Very briefly, here are some specifics with respect to this vessel and its proposed operation: The S.S. *Constitution* was built in 1951 at the Bethlehem Steel Shipyard in Quincy, Mass. It had been operated by its owners, American Export Lines, in their New York-Mediterranean passenger service until 1968. It was then laid up until 1974 when it was sold to the Atlantic Far East Lines, a foreign corporation. It is now owned by American Global Lines, a U.S. corporation based in New York City. It is intended that the vessel will join the *Oceanic Independence* in the Hawaiian islands cruise trade operated by American Hawaiian Cruises.

Approximately 2 years ago this committee, along with the House Merchant Marine and Fisheries Committee, set the stage for the reestablishment of the American-flag passenger cruise service by enacting what became Public Law 96-111, which enabled the owners of the *Oceanic Independence* to operate the vessel in cruise service between the islands of Hawaii. The wisdom of the legislative action is demonstrated by the fact that you are here today considering granting permission to the S.S. *Constitution* to enter the same service.

The arguments that were made for the S.S. *Oceanic Independence* are even more forceful and valid in the case of the *Constitution*, because it is on the basis of the outstanding success of the *Independence* that a similar request is being made on behalf of the *Constitution*. In view of the state of the American economy, and in view of the critical condition of the American-flag maritime industry, every encouragement should be given to citizens who are willing to invest their capital, their experience and their ingenuity in the expansion of American enterprise, particularly where it will create additional badly-needed employment for American workers, improve our balance of payments position and, not insignificantly, strengthen our national security.

Of particular note at this point is the fact that the enterprise will entail no cost to the Government. All the operator is asking is for the chance to expand upon the success already achieved in the Hawaiian island cruise service with the *Independence*. And, as in the case of the *Oceanic Independence*, all necessary training and upgrading of the ship's crew will be conducted at the Seafarers School of Seamanship in Piney Point, Md., again at no cost to the Government.

There are no valid or effective arguments to be made against enactment of the proposed legislation because by every measure our Nation stands to gain by what the bill would achieve. What is important at this point is to speedily enact the proposal so that the S.S. *Constitution* can become operative as quickly as possible and the benefits therefrom can begin to flow without any unnecessary delay.

Again, I want to thank you, Mr. Chairman and the members of the committee for allowing us to express our views on this vital piece of legislation. The desire on the part of the company to put the *Constitution* in service with the *Independence* is in effect a commendation of this committee for its part in enabling the Hawaiian island cruise service to be created some 2 years ago. All of the beneficiaries—the crew members, the owners and operators, their suppliers, the repair yards, and the

maritime industry generally are indebted to this Committee for helping to get this project going. Thank you again.

Senator INOUE. Our next witness is the special assistant to the president of the Marine Engineers Beneficial Association, District 2, Mr. Edward V. Kelly.

Welcome, sir.

**STATEMENT OF EDWARD V. KELLY, SPECIAL ASSISTANT TO THE
PRESIDENT OF DISTRICT 2, MARINE ENGINEERS BENEFICIAL
ASSOCIATION-ASSOCIATED MARITIME OFFICERS**

Mr. KELLY. Good morning, Mr. Chairman.

Mr. Chairman, distinguished guests, my name is Ed Kelly and I am the special assistant to the president of District 2, Marine Engineers Beneficial Association-Associated Maritime Officers, an affiliate of the AFL-CIO Maritime Trades Department.

District 2 MEBA-AMO is a union comprised of licensed U.S. merchant marine officers employed across the Nation and around the world on privately owned and operated U.S. merchant vessels.

Mr. Chairman, I believe you have a copy of my statement. I would like, with your permission, to enter the statement into the record and just make a few comments.

Senator INOUE. Without objection, your statement will be made a part of the record.

Mr. KELLY. We believe strongly in this bill for some of the reasons I would like to enunciate here:

One, this bill would create hundreds of jobs in the U.S. seafaring and related maritime industries and services;

It would mean resuscitation of the almost dormant U.S.-flag domestic cruise and passenger service;

The support of the U.S. shipbuilding industry in that maintenance and repairs to the vessel after its return to U.S. registry will be made in the domestic yards;

It will be strengthening our Nation's military preparedness posture. By law the *Constitution* will be made available to the United States for purchase or charter as a naval auxiliary in time of emergency;

Purchase of goods and services from virtually every other sector of our economy will be required by rejuvenated U.S.-flag passenger cruise trade;

Improvements in our balance of payments in keeping tourist dollars in the United States and stimulating the flow of tourists and dollars from Japan and Europe to the United States.

Enhancement of the national policy designed to maximize U.S. benefits from the lucrative international tourist trade;

I would be happy to answer any questions.

Senator INOUE. Do you have any comment to make on Mr. Grueninger's suggestion that the passage of this bill would be unfair to the operation of the *Monterey* because the *Constitution* has had much of this refurbishing done in foreign ports?

Mr. KELLY. I was asked the same question a couple of years ago on the House side by Chairman Murphy when he chaired the bill that allowed the *Independence* to come back. My comment then was the amount of money spent overseas to refurbish the vessel

was one time, spent once. To bring this ship back I believe on the average the company will spend at least \$2 to \$3 million every year in U.S. shipyards. I do not know what he was spending overseas, but I think it was a small amount of money compared to what he will spend in U.S. yards the rest of the life of the vessel. And we at that time had very little objection to spending that money overseas.

Senator INOUE. Thank you very much, Mr. Kelly.

Mr. KELLY. You are welcome.

[The statement follows:]

STATEMENT OF EDWARD V. KELLY

Mr. Chairman, members of the subcommittee, distinguished guests. My name is Edward V. Kelly. I am the special assistant to the president of District 2 Marine Engineers Beneficial Association-Associated Maritime Officers, an affiliate of the AFL-CIO Maritime Trades Department. District 2 MEBA-AMO is a union comprised of licensed U.S. Merchant Marine officers employed across the Nation and around the world on privately owned and operated U.S. merchant vessels.

In December 1981, I appeared with District 2 MEBA-AMO deep-sea vice president Jerome E. Joseph and other witnesses before the House Merchant Marine Subcommittee to testify in favor of the legislation now before you—a bill to allow the passenger ship "*S.S. Constitution*" to return to U.S. registry, with "Jones Act" trading rights.

Mr. Joseph and I made our endorsement in part because of district 2's belief that, as a matter of principle, U.S.-flag ships ought to participate to the greatest possible extent anytime and anywhere U.S. business is conducted at sea—no matter which firm operates the ships or which union mans them.

The U.S. today can call only one passenger ship the "*S.S. Oceanic Independence*," its own. That, in our view, is unacceptable for a land nourished by maritime commerce. It's embarrassing for a country that once boasted the world's largest, fastest, most glorious fleet of passenger vessels.

But district 2 also supports the bill for less abstract reasons. First, we know from experience that legislation of this sort can work, and that the market is there to sustain the service proposed by the "*Constitution's*" operator.

The one U.S.-flag passenger ship now in service, the "*S.S. Oceanic Independence*," was the subject of identical legislation in 1979. That bill moved quickly through the process—and the vessel has since run profitably, without subsidy, in the Hawaiian Islands.

The operator of the "*Oceanic Independence*"—who intends to enter the "*Constitution*" in the same trade—reported to the House panel in December that more than 45,000 passengers have toured Hawaii aboard the "*Oceanic Independence*" since she resumed U.S.-flag operation, and that 30,000 others will book passage each year hereafter. The demand clearly warrants a second ship—the "*Constitution*"—in the Hawaiian trade.

Moreover, the return of the "*Oceanic Independence*" to U.S. registry created more than 600 shipboard jobs and 75 shoreside jobs for American citizens. It generated more than \$15 million in annual supply, ad, and promotional revenues, an additional \$8 million in yearly benefits for hotels and other tour businesses, more than \$2 million in routine maintenance and repair work for U.S. shipyards—and an estimated \$1,750 in annual individual spending by the ship's passengers, representing over \$54 million in revenue.

That, in our judgment, is good business—business making it alone with private capital and initiative. Allowing the "*Constitution*" to come home will trigger the same economic benefits at no U.S. expense.

But the bill in question has strong military merit as well. The "*Constitution*" like the "*Oceanic Independence*," is ideal for troop and supply transport, or for conversion to a hospital ship, and it would be at U.S. military disposal in a crisis.

That's important for the United States, which—for all its bluster and tough talk against military challenges abroad, for the size of its defense budget, and for the 200 years of seafaring history it has to learn from—is vulnerable to defeat in a limited conflict because it lacks the sealift resources necessary to sustain a prolonged military operation.

Defense analysts at the Congressional Budget Office have estimated that "planned improvements in sealift could double the number of U.S. ground troops to arrive in the Persian Gulf in the first 16 days after U.S. mobilization."

Similarly, Admiral Kent J. Carroll, Commander of the U.S. Navy's military Sealift Command, has pointed out that the United States "lacks readily available capability to move large forces."

Indeed, Admiral Carroll put it well, if bluntly, when he said in a recent address: "... It's no exaggeration to say we pursued sealift with relentless apathy—and apathy is a dangerous course. Seapower is vital to our country."

Without adequate and reliable sealift, Admiral Carroll warned, "literally none of our military plans are executable—more than 90 percent of all wartime cargo will go by sea, regardless of where the conflict is."

Some claim persistently that the United States can call on its allies to meet its maritime needs in a military emergency. But that's a naive argument, given recent history and current political reality: Allied response to U.S. nonmilitary initiatives has been polite but tepid. No realist can ponder Iran, Afghanistan, or Poland and expect U.S. allies to commit themselves to a combat effort—unless, of course, the shooting is right next door.

Others argue just as naively that the United States has a large fleet of merchant ships under its "effective control"—ships registered in Liberia, Panama, the Honduras, or elsewhere—that it can summon to American service in a crisis. But most of those "flag of convenience" ships are not militarily useful, and all of them are manned with a curious mix of foreign nationals who simply cannot be expected to hold U.S. interests above all else. Finally, we suspect with good reason that U.S. owners can lose those ships to nationalization by "here today, gone tomorrow" governments—can the United States safely call Liberia's Sgt. Doe a stable, reliable friend? District 2 MEBA-AMO believes not.

It really is a matter of doing it ourselves if we want it done the right way. District 2 MEBA-AMO and the Maritime Trades Department have said in other forums that the privately owned and operated U.S. merchant marine can do the sealift job, properly and dependably, in the 1980s, as it did in World War II, Korea, and Vietnam. Turning the logistics support responsibilities over to the private sector would free Navy personnel for combat duty—and there would be no question, no doubt, about where the heart of a civilian sealift cadre would be in an emergency.

That proposed transfer of responsibility is viewed favorably by the President and many in Congress, by Admiral Carroll, Navy Secretary Lehman, Assistant Navy Secretary Sawyer, and others who see it as a sensible solution to a critical problem.

They would have no quarrel with approving the legislation before this subcommittee today. Allowing the "Constitution" to operate under the American flag would immediately add to U.S. sealift capability, without new Federal expense. It would provide the United States with one more ship to count on when the alarm sounds—a ship owned and operated by Americans, manned by Americans, for Americans, a ship making money for Government, industry, and labor in peacetime, and turning to in war. That's the best way to plan for U.S. needs in these turbulent times.

It is common knowledge that the Soviet Union has the world's most militarily suited merchant fleet, and that its cargo ships and fishing trawlers double as spy vessels. It is also known that the Soviets have at least 75 merchant or passenger ships capable of transporting troops and supplies.

The United States, then, has a lot of catching up to do if it is to meet the undeniable Soviet challenge at sea. To start, it must match the Soviet seafaring wisdom and develop a merchant fleet capable of serving as an effective naval auxiliary, and a passenger fleet that can deliver troops and materiel quickly and efficiently to any corner of the world.

The bill before you today can provide the momentum to do just that. Three years ago, the United States had no passenger ships under its own flag. Today, we have one. By the end of this year, we'll have two—if the Senate acts quickly and favorably on this legislation.

It's possible for the United States to regain its maritime superiority. It's possible for the United States to recapture its seafaring heritage and secure its future on the world's sea lanes. But only if we accept every opportunity to those ends.

Thank you very much for your time. I will be available for any questions the Chairman or subcommittee members may have.

Senator INOUE. Our next witness is the chairman of the board of the American Global Line, Inc., New York City, Mr. Conrad H. C. Everhard.

Welcome, sir.

Mr. Everhard, we have your prepared statement. Without objection, that statement will be made part of the record.

**STATEMENT OF CONRAD H. C. EVERHARD, CHAIRMAN,
AMERICAN GLOBAL LINE, INC.**

Mr. EVERHARD. Could I make a few changes, Mr. Chairman? Senator INOUE. Please do.

Mr. EVERHARD. First I would like to commend you for your leadership role and your constant interest in the American-flag industry in particular and the industry in general.

My statement is basically the same as it was when I testified in the House except for some cosmetic changes, but perhaps I could leave them in the record.

The initial startup cost, of course, is always horrendous, and we had some losses, but I am pleased to say that the load factors now on the *Independence* are very encouraging. The *Independence* can carry up to 800 passengers, and the load factors lately are between 80 and 90 percent, and it employs over 350 U.S. citizens, licensed and unlicensed personnel.

If the *Constitution* would also enter this trade the employment figures would go up to over 700, and with the backup for people that go on vacation and leave it would create employment, I would say, for close to 900 American seafaring jobs, which is equivalent to the jobs of unlicensed personnel that would be employed on 50 tankers, 50 American tankers, equal to those two vessels.

I would like to emphasize that we have received nothing but cooperation from labor since we first disclosed our plan to become an American-flag cruise ship operator. We have enjoyed an outstanding relationship with the unions and have worked together to keep costs down and productivity high.

There are indeed at this point in time labor leaders with vision and courage who have a grasp of the grim realities and are able to cope with them. Regrettably, of course, those views are not universally held.

As I indicated in my prepared statement earlier, timely passage of H.R. 3782 to enter the *Constitution* in the cruise service among the American Hawaiian Islands in June of 1982 is of the utmost importance. We require about 6 months' lead time to advertise and market our tours. Thus far we have carried over 50,000 passengers on the *Independence*. At the current rate of bookings we will stimulate the Hawaiian economy by bringing well over 80,000 visitors annually to the State based on the record of the *Independence*.

I would like to stress that the *Oceanic Independence* project has been funded entirely with private capital. Similarly, we will seek no Federal subsidy for the *Constitution*.

Our success and your legislation will send a positive signal to venture capital, wake up investments in this industry. Success begets success like failure begets failure.

The bill we are considering today should be favorably considered if the *Constitution* is to rejoin her sister ship as an economically viable member of the U.S.-flag fleet.

The legislative record of Public Law 96-111 contains detailed discussions of the statutory provisions which H.R. 3782 would waive.

The reentry of the *Constitution* into U.S.-flag passenger service will promote the national interest and significantly benefit our merchant marine and defense capability in the following ways.

Hundreds of badly needed jobs will be provided in the American seafaring and related maritime industries; the American Shipyards will benefit.

The *Independence* already has spent \$2 million in American shipyards. In Dry Dock No. 4 in Pearl Harbor, which was leased from the Government, the Government received income there and the work was done by civilians. It was not in competition with any yard, contrary to what I heard earlier this morning, and when the ship had an unfortunate incident in Nawiliwili she went under her own power to the Todd shipyard in Alameda, and I think it was a success both for the shipyard and for us, because the ship was delivered not only on time but before time and we lost a minimum of trading time.

The goods and the services are all purchased from the private sector on the Mainland and in the Hawaiian Islands. We spend annually on the *Independence* over \$13 million for provisions, another \$2 million on advertising, some \$7.5 million for wages and salaries. Further, we estimate that the hotels, transportation entities, and other companies associated with the travel and maritime industries in the United States have received commissions and other financial benefits from our cruise venture in the amount exceeding \$8 million.

Of the 50,000 passengers that we attracted to Hawaii, our survey shows that well over 50 percent would not have gone to Hawaii if it wasn't for a cruise, because cruising is a growing business; it's a billion dollar business. But it is totally controlled by foreign-flag lines except for the *Independence*. And all this money can now be kept in the United States which is helpful for our international balance of payments.

We attract tourists from Japan, Australia, Canada, and it is the way to see Hawaii. It is absolutely fantastic to go around the islands in a luxury cruise liner and see the sunset. It is quite an experience. On top of it, all the passengers on that ship usually stay for another week in a favorite spot, whether it is on the big island or Maui or Oahu, and they spend an average of \$1,700 in addition to the expense for the cruise. The benefits being derived to the State of Hawaii in the form of taxes, sales taxes, is quite substantial, and the figure that was given to me is over \$5 million just for the additional taxes.

The *Constitution* will further reduce the dependency of our country on the vessels of other nations for cruise and passenger ship service.

As I told you, thousands of tourists that are coming to the United States are also interested in cruising, and we have proven that we can do it.

The American cuisine is outstanding. Of course, it's like anything else, people don't do what you expect, they only do what you inspect, and it is a matter of a close relationship between management and labor for mutual benefit.

Finally, the return of this proud vessel to active status will enhance our Nation's military preparedness. The Navy looked at this

ship; they know what the ship can do. She could be an auxiliary naval vessel immediately. The moment the whistle blows she's ready. And she could be a backup for the rapid deployment forces.

She could be easily converted—when I say easily I talk as a layman now, but I've been told—into a hospital vessel. The marines have those units that look like containers and the operating rooms and beds and everything is in there. You can spread them all over the ship. And to have two vessels like that is of great importance. The Russians, of course, as far as their merchant marine is concerned, they do everything with a consciousness of purpose in mind. Their ships are all built to naval specifications. Their merchant marine is, of course, an extension of their navy, and it is about time that we started moving in the same direction.

Mr. Chairman, I thank you again for holding and chairing these hearings, and I will be glad to answer any questions you may have, sir.

Senator INOUE. Thank you very much, sir.

Mr. Grueninger has said throughout his testimony that the passage of this bill will be very unfair to his ship, the *Monterey*, for two reasons. One, the fact that much of the refurbishing on the *Constitution* was done in a foreign yard; and that it is not fair to give your ship an advantage by not requiring you to wait 2 years before bringing her into service. How would you comment, sir?

Mr. EVERHARD. I missed the last point. To wait 2 years before bringing it into service?

Senator INOUE. Yes, sir.

Mr. EVERHARD. First, of course, the refurbishing was done—I think he's talking about the *Independence* first and then the *Constitution*—before the bill was passed, and the reason why it was done is because the startup costs of a passenger venture is horrendous. Only people who have the thorough knowledge of what they are getting into still are frightened of being able to handle it. And by that I mean you got to be dyed-in-the-wool steamship people and you've got to also be an entrepreneur.

Those ships were in the Far East under tow. To bring those vessels all the way to America, No. 1, would be a great expense to tow them to the west coast, and then, of course, bring them back to Hawaii, because our intention is only to run them interislands.

I would like to say that for instance on the *Constitution* we spent some \$13 million on refurbishing, but 75 percent of the material was bought in the United States: the sewage treatment plant, the bow thruster, the communication equipment; the decorations and furnishings on the vessel, 80 percent came from the United States. The laundry and galley and garbage disposal, all U.S.-made material, according to Coast Guard specifications.

So the reason why it was done there is simply to make this venture viable or more viable.

As I told you before, Mr. Chairman, we already spent \$2 million in American yards. It's only a one-shot deal, a start-up deal. When you start this business you have to be prepared to lose money the first year, and when you lose money on a passenger vessel you lose a substantial amount of money. Then later on you see if you can recoup it.

Running a passenger ship is a combination of being a romantic and capitalist, because it is not like any other part of the steamship industry. But it does give one a sincere and proud feeling of association. But it is an operation that has to be watched very carefully.

To wait 2 years to start a service is, of course, totally contrary to commonsense for the same reasons that I stated before. Here we can create with the two ships 900 jobs. Why can we create 900 jobs? Let's say you got about 350 and 350 on two ships. You need people for the rotation. Now you can get the people because they are insured of employment. You have a certain economy of scale. If you have one vessel it is too expensive to have a standby crew, but with two vessels you can do it, because now you got an operation going and you can interchange because they are practically identical ships, they are sister ships. And 900 jobs at sea, Mr. Chairman, is equivalent to the jobs for unlicensed seamen of 50 tankers. Now I don't know how long it is going to take before we are able to float 50 tankers.

So I think the contribution to our country is self-evident and I applaud all the people who worked on this project, who encouraged us, because it was like Roger Bannister breaking the 4-minute mile. Once he did it there were three guys that did it in 5 weeks. And that's what I'm saying here. If this thing will prove that it is a success, first one, now two ships, maybe next year three ships in other areas, that is a positive signal to the world that we Americans can do it, and it is the renaissance of the American-flag passenger merchant marine.

I want to thank you for your efforts on that behalf.

Senator INOUE. I thank you very much, Mr. Everhard. Your response to some of the criticism I think will be very helpful in our consideration of this bill.

Mr. EVERHARD. Thank you.

[The statement follows:]

STATEMENT OF CONRAD H. C. EVERHARD, CHAIRMAN, AMERICAN GLOBAL LINE, INC.

Mr. Chairman, our Nation has a proud tradition as a great maritime power. It is tragic, indeed, that the U.S. passenger trade has virtually disappeared during the past two decades. In the lucrative cruise market for U.S. passengers, foreign flagships, including those of the Soviet Union, have achieved almost total dominance. However, I am pleased to testify today as Chairman of the American Global Line, Inc., in support of H.R. 3782, a bill which will contribute significantly to the revitalization of the United States flag passenger fleet, create work for U.S. seamen and shipyards, enhance our balance of trade and the economy of Hawaii, and provide a valuable asset for our potential defense requirements. Moreover, the legislation before the Committee offers a truly unique opportunity to advance our national interests so forcefully at no cost to the Government or U.S. taxpayer.

H.R. 3782 substantially tracks Public Law 96-111 passed two years ago by the 96th Congress. That legislation was designed to rejuvenate the U.S. Merchant Marine by permitting the entry of five passenger vessels, including the S.S. *Oceanic Independence*, into the coastwise trade through a waiver of certain statutory restrictions in the Merchant Marine Acts of 1920 and by clarifying Section 506 of the Merchant Marine Act of 1936.

In testifying on the bill, I outlined my Company's plans to return the *Oceanic Independence* to U.S. registry and to operate it on cruises among the Hawaiian Islands. On June 21, 1980, American Global initiated its program of weekly cruises in Hawaii with the *Independence*, and thus became the only one of the five ships to actually return to service. Today, the Committee is considering legislation to permit

the *Constitution*, the sister ship of the *Independence*, to enter the inter-Hawaiian Island cruise trade.

On behalf of our management, I am pleased and proud to report that our Hawaiian cruise venture is definitely developing into a successful operation; after a slow start, our load factors are high and all the indices are pointing towards profitability.

The *Independence* carries up to 800 passengers, is manned by over 300 citizens of the United States as deck and engine personnel and unlicensed crew, and thus provides employment to 600 merchant seamen, as well as some on-shore company employees. I would like to emphasize that we have received nothing but cooperation from labor since we first disclosed our plan to become an American-flag cruise ship operator. We have enjoyed an outstanding relationship with the unions and have worked together to keep costs down and productivity high.

When we purchased the *Oceanic Independence*, we obtained an option to purchase its sister ship, the *Oceanic Constitution*. This vessel was built at the Bethlehem Steel shipyard in Quincy, Massachusetts in 1951 by American Export Lines Inc. In 1974, it was sold at bankruptcy to a Liberian corporation, transferred to the Panamanian flag, and towed to Hong Kong. The *Constitution* was laid up until early last year when she began extensive refitting and renovation to restore her to the first class condition appropriate for a luxurious, comfortable cruising vessel.

As I indicated earlier, assuming the timely passage of H.R. 3782, my Company intends to enter the *Constitution* in cruise service among the Hawaiian Islands in June 1982. Ideally, we require about six months lead time to advertise and market our tours. Thus far, we have carried over 50,000 passengers on the *Independence*. At the current rate of bookings, we will stimulate the Hawaiian economy by bringing well over 30,000 visitors annually to the state. Our marketing experience persuades us that sufficient tourist demand exists for American-flag passenger service to enable us to operate the *Constitution* successfully, particularly with the economies of scale of cruising two vessels in the same run. Indeed, our management has always welcomed prospective U.S. flag competitors in the cruise trade, whether they be the "Big U," the *Monterey*, or some other vessel. We believe that the success of our enterprise bodes well for the entire U.S. cruise industry because private capital will become more readily available for later ventures as investors come to appreciate the tourist demand that exists for U.S. flag service. I would like to stress that the *Oceanic Independence* project has been funded entirely with private capital. Similarly, we will seek no federal subsidy for the *Constitution*.

The bill we are considering today must be passed if the *Constitution* is to rejoin her sister ship as an economically viable member of the U.S. flag fleet. The legislative record of Public Law 96-111 contains detailed discussion of the statutory provisions which H.R. 3782 would waive. As you know, the legislation is required because the interpretation placed on Section 27 of the Merchant Marine Act of 1920 by the Coast Guard would prohibit the *Constitution* from engaging in the coastwise trade after its return to U.S. registry since it was sold foreign after having been built in, and documented under, the laws of the United States.

The re-entry of the *Constitution* into U.S. flag passenger service will promote the national interest and significantly benefit our merchant marine and defense capability in the following ways:

1. Hundreds of badly-needed jobs will be provided in the American seafaring and related maritime industries and services

2. American shipyards will benefit. After its return to U.S. registry, the *Constitution* will be maintained and repaired in U.S. shipyards, as the bill requires. Recently, the *Oceanic Independence* underwent repairs in a West Coast shipyard at a cost of almost \$2 million.

3. Goods and services will be purchased from many sectors of our economy. For example, we spend annually over \$13 million to provision the *Oceanic Independence*, another \$2 million in advertising and sales promotion, and some \$7.5 million for wages and salaries. Further, we estimate that hotels, transportation entities, and other companies associated with the travel and maritime industries have received commissions and other financial benefits from our cruises venture in an amount exceeding \$8 million yearly.

4. The *Constitution* will further reduce the dependence of our country on the vessels of other nations for cruise and passenger ship service. Thousands of tourists from both the United States and foreign countries, such as Japan and Canada, will choose to cruise between U.S. ports under the U.S. flag on a ship operated under the high U.S. safety standards. The money these tourists spend will significantly benefit our economy and bolster our balance of payments. For example, our figures indicate that each of our cruise passengers on the *Oceanic Independence* has spent an aver-

age of \$1,750 on his or her vacation, representing annual revenues of over \$54 million, which stay in the United States.

5. Finally, the return of this proud ship to active status will enhance our nation's military preparedness. The National Defense Reserve Fleet will gain access to a large passenger liner maintained in excellent condition and operated in U.S. waters. Upon a few hours notice in time of national emergency, the *Constitution* could be used as a naval auxiliary to meet our need for logistical support, whether as a back-up to rapid deployment ships or as a floating hospital. The Navy inspected the *Independence* when it was in drydock in Pearl and determined that the ship could rather quickly be converted to hospital service. The same finding obviously applies also to the sister ship, the *Constitution*.

That concludes my prepared remarks. Senator Inouye, we would like to express our sincere gratitude for the Committee's interest and support of H.R. 3782 and for considering so promptly this measure to bolster our nation's merchant marine industry and economic well-being.

I will be glad to answer any questions the Subcommittee might have.

Thank you.

Senator INOUE. Our final witness is from the Seafarers International Union, Mr. Fred Somers.

Welcome, sir.

STATEMENT OF FREDERICK P. SOMERS, LEGISLATIVE REPRESENTATIVE, SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO

Mr. SOMERS. Good morning, Mr. Chairman.

Mr. Chairman, my name is Frederick P. Somers. I am a legislative representative of the Seafarers International Union of North America, AFL-CIO.

I would first like to extend the apologies of my president, Frank Drozak, for his inability to be here this morning.

Senator INOUE. Would you care to have his statement made part of the record?

Mr. SOMERS. I would, Mr. Chairman.

Senator INOUE. Without objection, so ordered.

Mr. SOMERS. Mr. Chairman, we appreciate the opportunity to share our views on H.R. 3782, a bill to return the SS *Constitution* to service under the U.S. flag. If enacted, this legislation would provide a real boost to the economy of this country without expense to the taxpayer.

In 1979 the Congress unanimously passed H.R. 5472, a bill which enabled the passenger vessel SS *Oceanic Independence* to reenter domestic service, as has been noted here this morning. At present that vessel is employed in a weekly cruise service in the Hawaiian Islands and usually sails at 90 percent of capacity, providing a significant number of seagoing jobs at a time when they are very, very badly needed, and provides a stimulus to the local economy.

We are eager to see the *Constitution* return to service in the same trade as the *Oceanic Independence*. It is estimated that such a return would provide about 350 new jobs and would strengthen several sectors of the American economy.

At a time when we are beefing up our defense resources enactment of this bill would add yet another obvious asset. As you pointed out and was noted in the Senate report to accompany the legislation permitting the reflagging of the *Oceanic Independence*, this legislation would strengthen national security by providing strategic flexibility in troop transportation.

At the moment the *Oceanic Independence* is the only active oceangoing passenger ship flying the U.S. flag. The progress of this pilot project has been watched very carefully. It is an experiment that has worked well. We believe enactment of this legislation before you would give further evidence that the Congress seriously intends to support the revitalization of the U.S.-flag passenger fleet.

Mr. Chairman, we believe the arguments made in support of reflagging the SS *Constitution* with domestic trading privileges are really no different from the arguments that led Congress to pass the legislation in 1979 regarding the *Independence*. Timely passage of this bill would put hundreds of people to work and would be a positive stimulant to the economy and our national security. We respectfully urge the enactment of this bill.

Thank you very much for the opportunity to present our views.
[The statement follows:]

STATEMENT OF FRANK DROZAK, PRESIDENT, SEAFARERS INTERNATIONAL UNION OF
NORTH AMERICA, AFL-CIO

Mr. Chairman and members of the subcommittee, we appreciate this opportunity to share our views, on H.R. 3782, a bill to return the SS *Constitution* to service under the U.S. flag. We are all looking for sound ways to revitalize the American maritime industry. If enacted, this bill would provide a real boost to the economy of this country, without expense to the taxpayer.

In 1979, the Congress unanimously passed H.R. 5472, a bill which enabled the passenger vessel, SS *Oceanic Independence* to re-enter domestic service. As you know, at present that vessel is employed in a weekly cruise service in the Hawaiian Islands. It usually sails at 90 percent of capacity, carrying about 720 passengers. She provides over 700 jobs at a time when they are very badly needed. The wisdom of the Congress in passing the enabling legislation has been borne out over the past year or so.

Our concern here today is with the sister ship to the SS *Oceanic Independence*, the SS *Constitution*. We are eager to see the *Constitution* return to service in the same trade as the *Oceanic Independence*. H.R. 3782 would allow this to happen. It is estimated that such a return would provide at least 350 new jobs and would strengthen several sectors of the American economy.

At a time when we are beefing up our defense resources, enactment of this bill would add yet another asset. The Navy has indicated that it could use hospital ships. By law, the *Constitution* would have to be made available as a naval auxiliary in event of a war. In addition to their usefulness as hospital ships, we know from experience that passenger vessels are also extremely useful for troop transport. Furthermore, it is impossible for the U.S. merchant marine to serve its legislatively mandated role without actively employed ships. Simply counting on idle reserve fleet vessels will not ensure that we have the trained manpower required to carry out the merchant marine's national security mission.

In the Senate report to accompany legislation permitting reflagging of the *Oceanic Independence*, it was stated that such legislation would strengthen national security by providing strategic flexibility in troop transportation. The Senate further pointed out that the United States was totally dependent on airlift at a time when the Soviet Union had 71 troop carrying vessels at its disposal.

In addition to strengthening national security, passage of H.R. 3782 would send a clear message to the maritime industry. At the moment, the *Oceanic Independence* is the only active oceangoing passenger ship flying the U.S. flag. The progress of this pilot project has been watched very carefully. It is an experiment that has worked well. We believe that enactment of H.R. 3782 would give further evidence that the Congress seriously intends to support the revitalization of the U.S.-flag passenger fleet.

Moreover, the entry of the SS *Constitution*, into the domestic trades would provide some support to our commercial shipyards. Maintenance and repairs would have to be done in domestic yards. We are all aware of the fact that our commercial shipyards badly need additional business.

Mr. Chairman, we believe the arguments made in support of re-flagging the SS *Constitution*, with domestic trading privileges are really no different from the arguments that led the Congress to pass the 1979 legislation regarding the *Independence*. Timely passage of H.R. 3782 would put hundreds of people to work and would be a positive stimulant to the economy and our national security. We urge the enactment without delay.

Thank you very much.

Senator INOUE. Thank you very much, sir.

Before adjourning, I have a statement here from the president of the International Organization of Masters, Mates & Pilots, and without objection that statement will be made part of the record. [The statement follows:]

STATEMENT OF ROBERT J. LOWEN, PRESIDENT, INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS

Mr. Chairman and members of the subcommittee, my name is Robert J. Lowen. I am President of the International Organization of Masters, Mates & Pilots, ILA, AFL-CIO. The Masters, Mates & Pilots represents ships' masters and deck officers employed on United States-flag merchant vessels; tugboat captains, mates and operators engaged in domestic shipping operations; and licensed pilots operating in inland, coastal, harbor and international waters.

We appreciate this opportunity to present our views on H.R. 3782, legislation to waive the Jones Act (46 USC 683) so as to permit the passenger vessel SS *Constitution*, to operate in the domestic commerce of the United States.

At the outset, we wish to express our strong support for the amendment to H.R. 3782 offered by Congressmen Walter Jones and Mario Biaggi and adopted by the House of Representatives on December 8, 1981, to restrict the operation of the SS *Constitution*. This amendment would prevent the SS *Constitution*, which was repaired and refurbished in a foreign shipyard at a considerable savings in cost, from using this competitive advantage to the detriment of vessels like the SS *Monterey*, on which work will be performed in an American shipyard as required by law.

It was in fact slightly more than one year ago that the Masters, Mates & Pilots took an action which it deemed to be in the best interest of its members and the maritime community. We undertook to purchase the SS *Monterey*, and the SS *Mariposa* in an effort to save these two fine ships for the American flag and the "Jones Act" cruise trade. I use the word "save" because World Airways, the then current owner, was only days away from selling both vessels at a very substantial profit to foreign interests who had expressed their intent to convert them into livestock carriers in the Australian-Persian Gulf trade.

After extensive investigations and research into the history and repair and classification records of the two ships, and after intensive negotiations with Ed Daly of World Airways, a conditional purchase agreement was executed that permitted the Master, Mates & Pilots to take possession of the *Monterey* for the purpose of dry-docking and inspection. Additionally, a verbal option, which was the right of first refusal to acquire the *Mariposa*, was agreed upon.

The *Monterey* was then drydocked and inspected in an American west coast shipyard. The entire hull was audiogaged; every electrical circuit on the ship was megged out; her boilers were inspected; and certain other inspections and testing procedures were initiated to prove out what we had learned from certain private sources—namely, that the *Monterey* along with her sister ship the *Mariposa* were structurally sound and, had her previous owners been so inclined, she could have still been carrying passengers as an American-flag cruise vessel.

Upon completion of the surveys and inspections, we made the decision to complete the purchase of the *Monterey*, and to "financially warehouse" the vessel until a qualified cruise ship operator completed the private financing necessary to put the vessel into class for re-entry into the Jones Act cruise trade from the U.S. west coast with inter-island cruising between the Hawaiian Islands.

Our decision to hold the *Monterey*, for the American flag was applauded in many circles. In a typical editorial, the San Francisco Chronicle said:

"A maritime union's venture into ownership and operation of a passenger ship which will give its members jobs strikes us as a promising capitalistic idea . . . we wish the gentleman of the MM&P fair winds and a following sea."

In other circles, however, our action was apparently perceived as a potential commercial threat. For while our representatives were negotiating an extremely favorable credit purchase of the *Mariposa*, two events occurred:

It became known to us that copies of the *Monterey's* surveys and drydocking reports had been made available outside of authorized circles; and

World Airways advised us that they had received an offer of three million dollars cash for the *Mariposa* from a company that intended to keep her documented under the American flag.

Since our purpose was to save the *Monterey* and the *Mariposa* for American-flag operation, we advised World Airways that we would not exercise our right of first refusal to match the *Mariposa* offer.

Almost immediately after title transferred on the *Mariposa*, it became known that the purchaser was a C. Y. Tung enterprise and that rather than being brought into class in an American shipyard for operation as a U.S.-flag cruise liner to complement the *Oceanic Independence*, she was being prepared for an ocean tow to an unnamed Far Eastern port. In fact, the *Mariposa* lies at anchor today in the Port of Sasebo, Japan, still with her American registry intact and still owned by the parent company of American Hawaiian Cruises.

It is in our opinion obvious that the *Mariposa*, which is capable of producing the same number of jobs for American seamen as the *Oceanic Constitution*, and which would also—as a bonus—provide numerous American shipyard jobs and millions of dollars in revenue to American business, has been deliberately sequestered in a Far Eastern port. In the interim, Mr. Tung's own shipyard interests in Hong Kong and Taiwan have reaped the commercial benefit of repairing and refurbishing first, the *Oceanic Independence*, and now, the *Oceanic Constitution*. In both instances, there was full awareness of the fact that legislation was to be introduced to reflag these vessels with domestic trading privileges. The deed has been done for the *Oceanic Independence* and we applaud the fact that the operation has been a commercial success. However, we cannot accept American Hawaiian's arguments that they are revitalizing the American-flag cruise business. If they are sincere in their efforts to do so, they need only prove their sincerity by repairing and utilizing the Jones Act vessel they already own—S.S. *Mariposa*.

The very fact that they have instead chosen to gain a legislative waiver for the *Oceanic Constitution* is proof positive that they are only enhancing their own commercial interests. Our objection is that the enhancement of their commercial interests is accomplished to the detriment of my own members' interests. At this point in time, the S.S. *Monterey* has a defined commercial value protected from unfair competition by the Jones Act.

Consequently, we would again strongly urge that the commercial interests of those of us who are attempting to revitalize the American-flag cruise trade pursuant to the Jones Act not be damaged by legislation, albeit well-intentioned, such as H.R. 3782. The amendment adopted unanimously by the House of Representatives restricting the S.S. *Constitution* to the intra-Hawaiian Islands trade for its first twelve months of operation, while placing a limitation on the vessel, partially protects my union's own financial commitment toward protecting Jones Act employment.

Throughout the hearings held on H.R. 3782, all the witnesses urged that steps be taken to expand the American-flag cruise industry; that our economy will benefit from the jobs which would be created and the tax revenues that would be generated. We submit however that financing the conversion and upgrading of a Jones Act passenger ship which will be competing head-to-head in the coastwise trade with a vessel that has had comparable work performed at less than half the cost in a foreign yard places the "true" Jones Act ship at a competitive disadvantage. We believe the House-passed amendment would partially help achieve the benefits we all desire even though it leaves open to question the nation's commitment to the principles of the Jones Act.

We have been assured, and have confirmed, that funding for the purchase of the S.S. *Monterey* is in its final stages and we are looking forward to seeing her back in operation flying the American flag in the domestic passenger trade of the United States.

Senator INOUE. I wish to thank all the witnesses who have participated in this hearing. They have been extremely helpful. We will now study your testimony and hopefully act upon this at an early date.

The hearing is adjourned.

[Whereupon at 11:02 a.m. the hearing was adjourned.]

[The following information was subsequently received for the record:]

STATEMENT OF TALMAGE E. SIMPKINS, EXECUTIVE DIRECTOR, AFL-CIO MARITIME COMMITTEE

Mr. Chairman and members of the subcommittee, I am Talmage E. Simpkins, Executive Director of the AFL-CIO Maritime Committee. I am submitting the following statement on behalf of the National Maritime Union of America, AFL-CIO. The NMU appreciates the opportunity to express its views on H.R. 3782 as it was adopted by the House on December 8, 1981.

We identify with all the statements that it is in the best interest of the United States to have an American flag passenger fleet. We believe it is a disgrace that there is only one U.S. flag passenger ship now in service while at the same time there are approximately 50 foreign flag ships operating daily out of U.S. ports. None of these foreign flag ships meet U.S. safety standards and none of the approximately 10,000 jobs are held by American citizens.

The National Maritime Union, which historically manned the U.S. passenger fleet, has spent considerable time, first in attempting to retain the fleet, and since then, attempting to reactivate some degree of an American flag passenger fleet. In 1972, we were opposed to the foreign sale of our inactive passenger fleet, which included the S.S. *Constitution*. We have on many occasions opposed efforts to amend the Jones Act, regardless of how limited and restricted the proposed amendments. Our experience tells us that any break in the Jones Act, no matter how insignificant or limited, will be used as a precedent to further open the trade to foreign this or foreign that.

In a narrow sense, our position on the Jones Act has been to protect existing American flag ships and the jobs of citizens aboard these ships. If the Jones Act is broken it will jeopardize approximately 50 percent of our total American flag merchant marine. It is for this reason that our opposition to any change in the restrictive features of the Act has been consistent.

We have been involved over the past few years in an effort to reactivate the S.S. *United States*. We have also been aware of the progress being made to reactivate the S.S. *Monterey* and how the enactment of this legislation without the House floor amendments as adopted on December 8, 1981, would bring these efforts to a halt.

We stated before the House Merchant Marine and Fisheries Committee that we would withdraw our opposition to this bill if it was amended so that the re-registry of the S.S. *Constitution* under the U.S. flag would do the least amount of harm to the reactivation of the S.S. *Monterey* and the S.S. *United States*, even though it is against our continuing opposition to any break in the Jones Act. We believe the amendment restricting the reentry of the S.S. *Constitution* to U.S. flag with "Jones Act" privileges to the "... intra-Hawaiian Islands trade" for the "... first twelve months of operation as a vessel of the United States ..." makes the legislation more equitable for all concerned.

It is our understanding that the efforts to reactivate the S.S. *Monterey* are continuing and that enactment of this legislation with the restrictive language will not unduly hinder this effort.

We respectfully request that the foregoing be accepted and made a part of the record of these hearings.

Thank you.

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